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March 17, 2022

VIA ECF

United States District Court
Southern District of New York
Attn: Hon. Allyne R. Ross, U.S.D.J.
225 Cadman Plaza East
Courtroom 8C South
Brooklyn, NY 11201-1804

Re: Stidhum, et ano. v. 161-10 Hillside Auto Ave., LLC, et al.
Case No.: 1:19-cv-1625 (ARR) (SMG)
MLLG File No.: 94-2019

Dear Judge Ross:

This office represents the Defendants in the above-referenced case. See Docket Entry 10. Defendants write to request an extension of time to file and serve objections to the Hon. Robert M. Levy, U.S.M.J.'s (hereinafter "Judge Levy") March 3, 2022 Order denying Defendants' motion for attorneys' fees pursuant to Rule 41 of the Federal Rules of Civil Procedure (hereinafter referred to as "Rules" or "Rule"). See Docket Entry 27 (Order denying motion).

Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72, a party has fourteen (14) days from service of a report and recommendation to file written objections. See 28 U.S.C. § 636(b)(1)(c); see also Fed. R. Civ. P. 72. A party may also seek an extension of time of the deadline set forth in Rule 72. See Gao v. Perfect Team Corp., No. 10-CIV.-1637 (ENV) (CLP), 2013 WL 6901136, at *1 n. 1 (E.D.N.Y. Dec. 31, 2013) (extending Rule 72 deadline at least twice upon request). Indeed, pursuant to Rule 6, the court may, for good cause, extend the time with or without motion or notice if a request is made before the original time or its extension expires. See Fed. R. Civ. P. 6(b)(1)(A).

Here, Defendants respectfully submit that good cause exists warranting an extension of time for a couple of reasons.

First, Defendants need additional time to file their objections to Judge Levy's Order pursuant to Rule 72 because your undersigned counsel's deadlines in other matters prevented him from being able to prepare Defendants' anticipated Rule 72 motion. It would therefore be unfair to deny Defendants their right to *de novo* review by this Court on account of their counsel's obligations in other matters. See, e.g., Case No.: 2:21-cv-1940 (ARR) (ST) (in which your undersigned attended a mediation today to fully resolve and settle this case); see also Index No.: 654167/2021 (New York County Supreme Court) (in which your undersigned is working on opposing three (3) separate motions to dismiss).

Second, Defendants wish to avail themselves of *de novo* review of Judge Levy's Order pursuant to Rule 72 which will require additional time. Judge Aaron found in his Order that a stipulation entered into by the parties barred recovery of fees and because no evidence of bad faith, forum shopping, or vexatious litigation was presented, yet – Defendants respectfully submit – Judge Levy overlooked authorities cited by Defendants that stipulations do not serve as a bar to recover attorneys' fees and no showing of bad faith is required.

Third, pursuant to ¶ 1(E) of this Court's Individual Practices and Rules ("Practices"), Defendants respectfully submit that: (i) the original date to file objections to Judge Levy's Order is today, March 17, 2022; (ii-iii) Defendants have not previously requested an extension of this deadline; and (iv) it is futile to ask for Plaintiffs' consent, as they have previously declined to consent to extensions of time, including while your undersigned was on trial (see, e.g., Docket Entry 11 and Text Only Order dated July 1, 2019) and, further, have displayed their apparent animus towards your undersigned in their prior opposition papers to the underlying motion (see Docket Entry 21).

Accordingly, Defendants respectfully submit that good cause exists warranting this Court to exercise its discretion in granting the requested extension of time.

Defendants thank this honorable Court for its time and attention to this case.

Dated: Lake Success, New York
March 17, 2022

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

/s/ Emanuel Kataev, Esq.

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